

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARL SIMON,

Plaintiff,

v.

**RICK MULLGRAV, DWAYNE BENJAMIN,
LINDA CALLWOOD, RUSSEL WASHBURN,
JULIUS WILSON, DONALD REDWOOD,
JOHN P. DEJONGH, JR., KENNETH E.
MAPP, VINCENT FRAZER, CORRECTIONS
CORPORATION OF AMERICA,
GOVERNMENT OF THE VIRGIN ISLANDS,
NATASHA METCALF, DENNIS HOWARD,
and OTHERS UNKNOWN,**

Defendants.

Civil Action No. 2017-0007

Appearances:

Carl Simon, *Pro Se*

Kevin A. Rames, Esq.,

St. Croix, U.S.V.I.

*For Defendants Russell Washburn, Natasha Metcalf,
Dennis Howard, and Corrections Corporation of America*

ORDER

UPON CONSIDERATION of the Report and Recommendation (“R&R”) issued by Magistrate Judge George W. Cannon, Jr., pursuant to 28 U.S.C. § 1915(e)(2) and 28 U.S.C. § 1915A (Dkt. No. 45); Carl Simon’s (“Plaintiff”) Objections thereto (Dkt. No. 56); Plaintiff’s “Motion for Hearing” (Dkt. No. 57); and for the reasons set forth in the accompanying Memorandum Opinion filed contemporaneously herewith; it is hereby

ORDERED that Magistrate Judge Cannon's R&R is **REJECTED IN PART AND ADOPTED IN PART** as modified in the accompanying Memorandum Opinion filed contemporaneously herewith; and it is further

ORDERED that the breach of contract claims set forth in Counts 5 and 9 of Plaintiff's Complaint—and any other intended breach of contract claim—are **DISMISSED** for lack of standing; and it is further

ORDERED that the R&R is **ADOPTED** to the extent that Counts 1, 3 (in part), 5, 6 (in part), 7 (in part), and 8 of Plaintiff's Complaint are **DISMISSED** for failure to state a claim; and it is further

ORDERED that the R&R is **ADOPTED** to the extent that Count 2 of Plaintiff's Complaint is **DISMISSED** as frivolous; and it is further

ORDERED that the R&R is **ADOPTED** to the extent that Count 10 of Plaintiff's Complaint is **DISMISSED** as time-barred; and it is further

ORDERED that the R&R is **REJECTED** to the extent that Count 9 of Plaintiff's Complaint is **DISMISSED** for failure to state a claim; and it is further

ORDERED that the R&R is **REJECTED** to the extent that the Court will not dismiss Counts 3 (in part), 4, 6 (in part), and 7 (in part) of Plaintiff's Complaint; and it is further

ORDERED that Plaintiff shall have up to and including May 28, 2021 within which to file an Amended Complaint that addresses the deficiencies that the Court has found in Counts 1, 3 (in part), 5 (in part), 6, 7, 8, 9 (in part), and 10; and it is further

ORDERED that Plaintiff's "Motion for Hearing" (Dkt. No. 57) is **DENIED** as unnecessary; and it is further

ORDERED that the Clerk of Court shall provide a copy of this Order and its accompanying Memorandum Opinion to Petitioner by certified mail, return receipt requested.

SO ORDERED.

Date: April 16, 2021

_____/s/_____
WILMA A. LEWIS
Chief Judge